

**REMARKS**

Claims 1-17 and 19-29 are pending. Claim 18 is canceled. Upon entry of this paper, claims 1 and 15 are amended, new claim 30 is added, and the abstract is amended.

**No New Issues For Consideration Raised by Entry of Amendments**

Entry of the amendments after final is respectfully requested as the amendments raise no new issues for consideration. The amendments to the abstract and claim 1 are made according to the suggestion of the Examiner. The amendment to claim 15 is intended to present the chemical connectivity as it encompasses, for example, examples 9, 13, and 14 in the specification. In addition, claim 30 is identical to previously presented claim 1 and therefore raises no new issues for consideration. Applicants' arguments concerning the allowability of claim 30 are presented below.

**Support for Amendments**

The abstract is amended to shorten the abstract in length as directed by the Examiner. Support for the abstract can be found in the abstract as previously filed.

Claim 1 is amended to replace halogen with bromine and iodine as suggested by the Examiner. Support for the amendment to claim 1 can be found in examples 187-189.

Claim 15 is amended to specify the manner of attachment of the R' group to the remainder of the compound. Support for claim 15 can be found in examples 9, 13, and 14 in the specification as filed.

New claim 30 is identical to previously presented claim 1.

No new matter is introduced by the amendments to the claims and specification made herein.

**Allowed Claims**

Applicants thank the Examiner for the indication that claims 2, 12-15, 21, 23, and 26-29 are allowed.

**Rejections Under 35 USC 112, 1<sup>st</sup> paragraph**

Claims 1, 3-11, 16, 17, 19, 20, 22, 24, and 25 are rejected under 35 USC 112, first paragraph, as failing to comply with the written description, i.e. new matter, for halogen for variable R<sub>9</sub>. Applicants respectfully traverse. However, in order to advance prosecution, Applicants amend claim 1 to replace halogen with iodine and bromine as suggested by the Examiner. Applicants respectfully request withdrawal of the rejection as moot with respect to claims 1, 3-11, 16, 17, 19, 20, 22, 24, and 25.

With respect to new claim 30, Applicants respectfully traverse the rejection for new matter as it may be applied to claim 30, which is identical to previously presented claim 1. Claim 30 does not include new matter as the specification provides ample support for the term halogen. Ipsis verbis support is not necessary to support a claim and the specification clearly provides ample support for use of the halogens at R<sub>9</sub>. Furthermore, disclosure of a species, even a single species, may support a generic claim. “Thus, our predecessor court recognized that disclosure of a single species within a genus may be enough support for a claim to a genus.” Bilstad v. Wokalopuolos, 386 F.3d 1116, 1124 (Fed. Cir. 2004). Applicants’ specification does not disclose just one species of halogens, it discloses all of the naturally occurring halogens stating “Suitable halogen substituents in the compounds of the present invention include F, Cl, Br and I.” ¶51. In addition, the compounds of examples 187 and 188 both have Br at position R<sub>9</sub>

while the compound of example 189 has iodine at position R<sub>9</sub>. Thus, specific examples are disclosed which include half of the naturally occurring halogens. Further support provided in the specification for halogens generally at position R<sub>9</sub>, may be found from the recitation of C<sub>1</sub> - C<sub>12</sub> haloalkyl which would encompass methyl halogen. Applicants have thus provided specific disclosures of iodine and bromine at R<sub>9</sub> and any halogen on a single carbon at R<sub>9</sub>. Clearly, one skilled in the art reading Applicants' specification would consider fluorine, chlorine, iodine and bromine to be within the class of substituents which could be substituted at position R<sub>9</sub>. Accordingly, Applicants' use of halogen for R<sub>9</sub> should not be considered new matter and Applicants request allowance of claim 30.

Applicants respectfully request withdrawal of the ground of rejection.

### **CONCLUSION**

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

### **AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 50-3732, Order No. 13566.105007.


In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is

hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-3732**, Order No. 13566.105007.

Respectfully submitted,  
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Dated: May 29, 2007

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